

HB 2070 -- Mechanic's Liens

Sponsor: Lichtenegger

This bill changes the laws regarding mechanic's liens on residential real property. In its main provisions, the bill:

- (1) Revises the term "residential real property" to mean any new residential subdivision that has not been platted or recorded or a residential subdivision for which an application for final plat has been submitted;
- (2) Excludes any tradesperson who begins providing labor or materials after the property owner posts a notice of sale from filing a notice of rights with the recorder of deeds in order to retain the right to assert a mechanic's lien against the real property;
- (3) Specifies that a lien claimant, including a subcontractor or supplier, does not forfeit the right to a mechanic's lien if the claimant requests, but the property owner fails to provide, a notice of sale in sufficient time for the claimant to record his or her notice of rights if the claimant proves delivery of his or her request to the owner by certified mail, process server, or any delivery means requiring a signature or other proof of delivery. If the owner, or his or her designated agent, provides inaccurate information that results in a lien claimant filing an ineffective notice of rights, the claimant will retain his or her mechanic's lien rights;
- (4) Allows a successful lien claimant to be awarded attorney fees which are to be treated as interest and awarded at 9% per annum;
- (5) Requires the recorder of deeds to charge a nominal fee of up to \$5 for recording a notice of rights. A \$5 fee is established to file a mechanic's lien with the clerk regardless of the number of pages;
- (6) Requires a general contractor to provide a sworn affidavit to the owner of any residential real property for which work will be performed containing specified information regarding subcontractors and suppliers of materials. If the contractor does not provide the affidavit and the owner does not demand it, any notice of sale posted will be ineffective as to any subcontractor or supplier who was actually known but not notified. Any payments made by the owner to the general contractor are presumptively fraudulent as to subcontractors and suppliers who were known but not so advised;

(7) Requires the owner, if the closing date is postponed, to advise all subcontractors and suppliers of the postponement and the new closing date, if known. If the sale is postponed, any party not having timely filed a notice of rights by the original sale date may file a notice of rights within five days of the new sale date;

(8) Removes the provisions regarding the information that satisfies the just and true account requirement in Section 429.080, RSMo; and

(9) Specifies that the provisions of the bill will apply to any residential real property conveyance closing on or after November 1, 2012.